

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

HUDSON INSURANCE COMPANY,

Plaintiff,

VS.

JAMES MILLER, *et al.*,

Defendants.

Case No. 2:15-cv-00349-GMN-CWH

ORDER

Before the Court are Plaintiff Hudson Insurance Company’s (“plaintiff”) Motion to Bifurcate Discovery (doc. # 39), filed November 23, 2015, Defendant James Miller’s (“Miller”) response (doc. # 46), filed December 10, 2015, and plaintiff’s reply (doc. # 48), filed December 21, 2015. Also before the Court is Miller’s Motion for Leave to File Sur-Reply (doc. # 54), filed January 8, 2016.

BACKGROUND

This case arises from a motor vehicle accident involving Miller that occurred on August 3, 2013 in Las Vegas, Nevada. Plaintiff alleges that Miller was the driver of a tractor trailer covered under plaintiff's policy, with Miller operating the vehicle under an agreement to deliver goods for Defendant Colonial Freight Systems. On the evening of August 3, 2013, plaintiff alleges that Miller was en route to a truck stop when he rear-ended another vehicle occupied by Defendants/Claimants Arturo Montes, Jesus Montes, and Efrain Meza-Montes ("claimants"). Plaintiff brings this lawsuit to dispute a duty to defend and indemnify Miller under the non-trucking automobile liability insurance policy ("policy") for damages sought by claimants arising from the accident.

1 Miller, in turn, has filed counterclaims against plaintiff, asserting that plaintiff breached the
 2 insurance contract, with the breach conducted in bad faith and in violation of the “duty of good faith
 3 and fair dealing” provision of the policy at issue. Miller also asserts a claim for relief under Nevada
 4 Revised Statute (“NRS”) 686A.310 for misrepresentation regarding the subject policy.

5 **DISCUSSION**

6 **1. Motion to Bifurcate (doc. # 39)**

7 Plaintiff asks the Court to bifurcate discovery. According to plaintiff, Miller’s counterclaims
 8 are “sufficiently distinct and separable to warrant bifurcation.” Doc. # 39 at 4. Plaintiff also contends
 9 that its declaratory relief action does not give rise to bad faith or a breach of contract claim, and the
 10 matter is subject to “reasonable interpretation,” if not entirely favorable, to plaintiff and its position
 11 in this case. *Id.* at 6. Plaintiff then contends that its claims require little to no discovery to be resolved,
 12 and there is no reason to conduct discovery on Miller’s counterclaims, especially if the Court rules in
 13 favor of plaintiff. Plaintiff further contends that even if it does not prevail, Miller’s claims should still
 14 be bifurcated since Miller seeks to amend his complaint to add a claim for punitive or exemplary
 15 damages and, if granted, would lead to discovery regarding plaintiff’s “financial net worth and other
 16 sensitive matters.” *Id.*

17 Miller, in response, argues that plaintiff’s motion should be denied. In support, Miller argues
 18 that discovery has been stayed until the pending dispositive motions are resolved, rendering plaintiff’s
 19 motion premature. Miller also argues that the parties’ claims are inextricably intertwined, and that
 20 Miller’s breach and bad faith counterclaims are in response to plaintiff’s claim that it has no duty to
 21 defend Miller under the subject policy. Thus, Miller concludes that the counterclaims should not be
 22 bifurcated.

23 In reply, plaintiff restates its earlier assertions. Plaintiff also points out that Miller fails to
 24 address the argument regarding punitive damages, which purportedly offers a strong basis for
 25 bifurcating discovery in this case.¹

26 Rule 42(b) of the Federal Rules of Civil Procedure authorizes a court to order a separate trial

27
 28 ¹ The Court notes that Miller has asserted various factual inaccuracies and misrepresentations by plaintiff, which
 plaintiff has opposed. The dispute over these facts will not be addressed, as they are not properly before this Court.

1 of any claim when separation is in the interest of judicial economy, will further the parties' 2 convenience, or will prevent undue prejudice. Fed. R. Civ. P. 42(b). "Bifurcation is particularly 3 appropriate when resolution of a single claim or issue could be dispositive of the entire case." Drennan 4 v. Maryland Cas. Co., 366 F. Supp. 2d 1002, 1007 (D. Nev. 2005). "However, bifurcation of the trial 5 does not necessarily require bifurcation of discovery." Id.

6 The Court agrees with Miller that plaintiff's request is premature because discovery is stayed 7 pending resolution of the parties' dispositive motions. See Doc. # 42 (order staying discovery). 8 Contrary to plaintiff's assertion, moreover, this Court finds that plaintiff's claims and Miller's 9 counterclaims are intertwined, especially since Miller's breach and bad faith claims are responsive to, 10 and directly address, plaintiff's claim that it has no duty to defend and indemnify Miller under the 11 subject policy. Given such, the Court finds that joint discovery would be more convenient to the 12 parties and would further judicial economy.

13 The Court is also not inclined to bifurcate discovery simply because Miller "may" be bringing 14 a claim for punitive or exemplary damages, resulting in discovery of plaintiff's financial and other 15 "sensitive" information, in the event Miller's motion to amend the complaint (doc. # 26) is granted. 16 Plaintiff's argument is again premature. Nevertheless, the Court notes that if plaintiff's financial and 17 other "sensitive" information are relevant to this case, and would not unnecessarily confuse and 18 mislead the jury or prolong trial then that information would be discoverable without bifurcation of 19 the claims or issues. Highlighting further the prematurity of plaintiff's assertion, the Court notes that 20 plaintiff fails to provide any evidence demonstrating that bifurcation of the claim for punitive or 21 exemplary damages would enhance judicial economy. Without more, the Court finds that bifurcation 22 is not warranted at this time.

23 **2. Motion for Leave to File Sur-Reply (doc. # 54)**

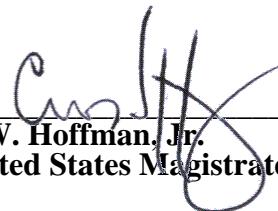
24 Because the Court denies the motion to bifurcate (doc. # 39) at this juncture, it denies as moot 25 Miller's motion to file a sur-reply.

26 **CONCLUSION AND ORDER**

27 Accordingly, **IT IS HEREBY ORDERED** that plaintiff's Motion to Bifurcate Discovery (doc. 28 # 39) is **denied**.

1 **IT IS FURTHER ORDERED** that Miller's Motion for Leave to File Sur-Reply is **denied as**
2 **moot.**

3 DATED: January 8, 2016

4
5 
6 C.W. Hoffman, Jr.
7 United States Magistrate Judge